

REMARKS

The Examiner rejected claims 1, 9, 33 and 38 under judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 4 of U.S. Patent No. 6,663,644. The Applicant is enclosing herein a Terminal Disclaimer to overcome the double patenting rejection.

The Examiner rejected claims 34-37 and 39-40 under 35 U.S.C. §112, second paragraph. The Applicant has amended the dependency of these claims to be dependent on presently pending independent claims 33 and 38. The Applicant therefore submits that the claims now comply with the second paragraph of §112.

The Examiner rejected claims 1, 3, 11 and 33 under 35 U.S.C. §102(b) as being anticipated by Baer. To anticipate a claim, all of the limitations of the claim must be found either expressly or inherently in the four corners of the reference. Independent claims 1 and 33 recite a blade holder pressed into a rear blade edge to secure the holder to the blade. As described in lines 62 through 76 of Baer, the clamping elements 12 and 20 are held in place by screw 11 and dowels 13. Baer does not disclose a blade holder that is pressed into the rear edge of the blade. Baer discloses a clamping member that is clamped onto the top and bottom surfaces of the blade and held in place by screws and dowels. Pressing the blade holder into the rear surface of the blade as recited in the claims allows the blade assembly to be calibrated to control the cutting depth of the blade. Baer does not allow for an adjustment of the relative position between the clamps and the blade to control the cutting depth of the blade in a manufacturing environment. The depth of the cutting blade of Baer is fixed by the dimension between the grooves 18 and a front cutting edge 17. This dimension may vary because of tolerances in the manufacturing of

the blade. Unlike the blade recited in the claims of the above entitled application, Baer does not allow for adjustments of the position between the clamping members and the blade during the assembly process of the blade assembly. For these reasons, the Applicant submits that Baer does not anticipate the claims.

The Applicant also submits that Baer is non-analogous. Baer relates to blades used to cut hair. The claims recited in the above entitled application relate to microkeratomes. Microkeratomes are instruments used by doctors to perform corneal surgery. The Applicant submits that one skilled in the art of microkeratomes would not look to the hair cutting arts.

The Examiner rejected claims 1, 2, 5, 7-10 and 13-15 under 35 U.S.C. 102(e) as being anticipated by Hellenkamp. Like Baer, Hellenkamp discloses attaching the blade holder to the top surface of the blade. Like Baer, Hellenkamp cannot adjust the distance between the reference surface of the blade holder and the leading cutting edge of the blade during the assembly process of the blade assembly. The Applicant also notes that there appears to be an inconsistency between the Examiner's double patenting rejection and claims of the '644 patent. The Hellenkamp patent was recited during the prosecution of the '644 patent. The claims of the '644 patent were found to be allowable over Hellenkamp. The Examiner has stated that the claims of this application are not patentably distinct from the '644 patent. Since the claims of the '644 patent were allowable over Hellenkamp, it would follow that the claims of this application would also be allowable over Hellenkamp.

The Examiner rejected claims 6 and 38 under 35 U.S.C. §103(a) as being unpatentable over Hellenkamp in view of Smith. The Applicant submits that these claims are allowable for being dependent upon allowable independent claims.

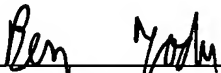
In view of the above, it is submitted that the claims are in condition for allowance.

Reconsideration of the rejections is requested. Allowance of claims 1-3, 5-11, 13-15 and 33-40 at an early date is solicited.

Respectfully submitted,

IRELL & MANELLA LLP

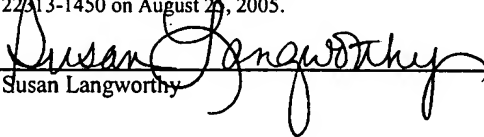
Dated: August 25, 2005


Ben Yorks, Reg. No. 33,609

CERTIFICATE OF MAILING

840 Newport Center Drive
Suite 400
Newport Beach, CA 92660
(949) 760-0991

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA, 22313-1450 on August 25, 2005.

 Aug 25, 2005
Susan Langworthy Date